

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re: Carlos A. Pagan, Sr.
Patricia M. Pagan
Debtors.

) Case Number: 11-16438-jps
) Chapter 13 Proceedings
) Honorable Jessica Price Smith

**TRUSTEE'S MOTION TO DISMISS CASE PURSUANT TO
11 U.S.C. SECTIONS 521(e)(2) AND 1307(c)(1)**

Now comes **CRAIG SHOPNECK**, the duly appointed, qualified, and standing Chapter 13 Trustee ("Trustee") herein, by and through counsel, and hereby moves this Honorable Court to dismiss the case of the Debtor (the "Debtor") pursuant to Sections 521(e)(2) and 1307(c)(1) of the Bankruptcy Code. In support of his motion, Trustee makes the following representations to the Court:

1. Debtors filed a petition under Chapter 13 of Title 11, U.S.C. on July 25, 2011. Pursuant to Section 341 of the Bankruptcy Code, the meeting of creditors is scheduled for August 24, 2011.
2. Pursuant to Section 521(e)(2)(A)(i) of the Bankruptcy Code, the debtor is to provide to the Trustee, no later than 7 days prior to the date first set for the first meeting of creditors, a copy of the federal income tax return for the most recent tax year ending immediately before the commencement of the case and for which a federal income tax return was filed. The 2010 federal income tax return was to be provided to the Trustee no later than August 17, 2011; however, as of the filing date of this motion, the Trustee has not received said federal income tax return.
3. Section 521(e)(2)(B) of the Bankruptcy Code, the Court shall dismiss the case unless the debtor(s) demonstrates that the failure to comply is due to circumstances beyond the control of the debtor(s). Debtor has not demonstrated any circumstances to excuse this Bankruptcy Code requirement and therefore, Debtor's case should be dismissed.
4. Furthermore, Section 1307(c)(1) of the Bankruptcy Code states that unreasonable delay by debtor(s) that is prejudicial to creditors is grounds for dismissal of the case of debtor(s). The Trustee cannot determine if Debtor has met all the requirements of Sections 1322 and 1325 of the Bankruptcy Code without this document.

WHEREFORE your Trustee, being a proper party in interest, hereby moves this Honorable Court pursuant to Sections 521(e)(2) and 1307(c)(1) of the Bankruptcy Code to dismiss this case of Debtor for the aforementioned reasons cited.

Respectfully submitted,

/s/ Craig Shopneck

CRAIG SHOPNECK (#0009552)

Chapter 13 Trustee

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. Sections 521(e)(2) and 1307(c)(1) was served electronically and/or via regular U.S. Mail, postage prepaid, this 23rd day of August 2011 upon the following persons:

William J. Balena, Attorney for Debtors
(Via Electronic Mail)

Patricia M. Pagan & Carlos A. Pagan Sr., Debtors
4510 Palm Avenue
Lorain, OH 44055

U.S. Trustee's Office
(Via Electronic Mail)

/S/ Craig Shopneck

CRAIG SHOPNECK (#0009552)

CS/kb
8/23/11